

VIA eFILE

PATENT APPLICATION
Docket No. 13768.221

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
)
	Anthony John Goodacre, et al.)
)
Serial No.:	10/010,190) Art Unit
) 2178
Filed:	December 5, 2001)
)
Conf. No.:	7310)
)
For:	OUTPUTTING DYNAMIC LOCAL CONTENT)
	ON MOBILE DEVICES)
)
Examiner:	Cesar B. Paula)
)
Customer No.:	047973)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the most recent final Office Action ("*Office Action*") dated November 13, 2006, and pursuant to the July 12, 2005, OG Notice regarding the Pre-Appeal Brief Conference Pilot Program, and the February 7, 2006 OG Notice extending the program, Applicants respectfully request panel review and allowance of the rejected claims in light of the Examiner's clear errors discussed below. This Request is being filed concurrently with a Notice of Appeal. Pursuant to this request, Applicants enclose herewith the fee for the Notice of Appeal. No amendment(s) to the claims is/are filed with this request.

Applicants may request a pre-appeal brief review of rejections set forth in an Office Action if (1) the application has been at least twice rejected; (2) Applicant concurrently files the Request with a Notice of Appeal and prior to an Appeal Brief; and (3) Applicant submits a Pre-

Appeal Brief Request for Review that is five (5) or less pages in length and sets forth legal or factual deficiencies in the rejections. See Official Gazette Notice, July 12, 2005. Applicants have met each of these requirements and therefore request review of the Examiner's rejections in the Final *Office Action* for the following reasons.

Claims 1-39 and 41-49 are pending, of which claims 1, 27, 41, and 43 are independent. Of these, claims 1, 27, 41, and 43 were recently amended. In the most recent *Office Action*, the Examiner rejected each of the independent claims (1, 27, 41, and 43) under 35 U.S.C. § 103(a) over U.S. Patent Publication No. 2003/0046365 to Pfister, et al. ("*Pfister*"), in view of U.S. Patent No. 5,987,480 to Donohue, et al. ("*Donohue*"), and further in view of U.S. Patent No. 6,023,714 to Hill ("*Hill*") and further in view of U.S. Patent No. 5,835,914 to Brim ("*Brim*"). The Examiner also rejected the corresponding dependent claims over *Pfister*, *Donohue*, *Hill*, and *Brim*, and further in view of U.S. Publication No. 2004/0015476 to Twaddle ("*Twaddle*") and U.S. Publication No. 2003/0061106 to Orhormuru ("*Orhormuru*") and U.S. Publication No. 2003/0126136 to Omoigui ("*Omoigui*").

The application is generally directed to receiving and displaying dynamic content, such as stock quotes, sports scores, headlines, etc. from a service provider when the dynamic content changes as opposed to some periodic schedule or when content is reloaded or refreshed. By using the principles of the present invention, the dynamic content is automatically sent from a provider when it changes such that the dynamic content is up to date and available when a user desires to view the content. The art cited by the Examiner simply does not teach or suggest the invention as recited by the claims of the present application.

Claim 1, for example recites a method from the perspective of a content provider including an act of creating a template file with static content and layout information and

dynamic references and layout information. The template file and generated computer executable instructions are transferred to a mobile computing device. The generated computer executable instructions facilitate merging updated displayable dynamic content at the mobile computing device with the layout information corresponding to one or more references to dynamic content. Additionally, the method recited in claim 1 includes an act of monitoring content denoted in a registration and when dynamic content of interest changes, the dynamic content is transported to the mobile computing device where the transported dynamic content is merged with the layout information corresponding to the one or more references to dynamic content. Claim 27 is similar to claim 1, except that it is recited from the perspective of a mobile computing device receiving the layout, computer executable instructions, and updated dynamic content. Claims 41 and 43 are computer program product claims corresponding to claims 1 and 27 respectively.

Each of the claims recite: “monitoring content denoted in a registration and when dynamic content of interest changes, transporting the dynamic content to the mobile computing device...” or similar limitations. To make a prima facie case of obviousness, the *Office Action* must cite prior art which teaches or suggests all the claim limitations. MPEP 706.02(j). The examiner clearly erred by failing to cite art to teach or suggest this limitation.

The *Office Action* admits that the claims, as most recently amended in AMENDMENT “E” are not made obvious by the combination of *Pfister*, *Donohue*, and *Hill*. Specifically, the *Office Action* states at page 2 that the rejections of the independent claims 1, 27, 41 and 43 combining *Pfister*, *Donohue*, and *Hill* have been withdrawn as necessitated by the amendment. However, in rejecting the amended claims, the *Office Action* reasserts *Pfister*, *Donohue*, and *Hill* and adds *Brim* for showing the subject matter of the amendments.

Specifically, *Brim* is cited to show “monitoring content denoted in a registration and when dynamic content of interest changes, transporting the dynamic content to the mobile computing device where the transported dynamic content is merged with the layout information corresponding to the one or more references to dynamic content” or similar limitations. See *Office Action* at pages 6-7, 17-18, and 22. Applicants reassert the arguments made in AMENDMENT “E” at pages 16-17 regarding *Pfister*, *Donohue* and *Hill* illustrating why those references do not teach or suggest these limitations. It seems that the Examiner agrees with those arguments in that the Examiner has withdrawn the rejections based solely on those references. See *Office Action* at page 2, point 4.

The following illustrates why *Brim*, also fails to show the stated limitation. In particular, the *Office Action* notes at page 7 that “*Brim* teaches ActiveX controls to display current information—dynamically—, such as stock prices, on a web page.” Interestingly the *Office Action* further points out one important distinction between the present application and *Brim*, highlighting the clear error in applying *Brim* to the claims as now drafted. Specifically, the *Office Action* at page 7 states that “The dynamic data is *continuously retrieved* from a remote server and updated on a location of the web page on a client web browser” (emphasis added). Applicants note that indeed this is specifically supported by *Brim* at col. 1, lines 50-51. However, this is the kind of activity that the present invention specifically avoids.

Brim teaches that a web browser creates and destroys Active X controls. Col. 1, lines 44-46. The Active X controls are used to “*continually retrieve*” stock prices. Col. 1, lines 50-51 (emphasis added). However, this is no different that what has already been shown in other references, which is that to achieve dynamic content, a client system constantly requests data from a data provider. The data is not provided as a result of the data changing, but rather as the

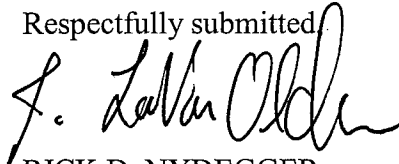
result of a request from the client to retrieve the data. In direct contrast to this, the claims of the present application recite “monitoring content denoted in a registration and when dynamic content of interest changes, transporting the dynamic content to the mobile computing device....” This is simply not shown by *Brim*. *Brim* only shows the data being transported as a result of an Active X control *continually retrieving* the data.

It appears that the Examiner’s error is rooted in the belief that any dynamic updating of data is sufficient to meet the limitation of “monitoring content denoted in a registration and when dynamic content of interest changes, transporting the dynamic content to the mobile computing device....” However, this is clearly in error as the claims require “monitoring content” and transporting the content when it changes and not simply continuously retrieving data whether or not the data has changed. The art cited by the Examiner does not show this essential element.

As such, Applicants respectfully submit that the present rejection of record is clearly erroneous, and that the present application is in condition for prompt allowance.

Dated this 13th day of March, 2007.

Respectfully submitted

A handwritten signature in black ink, appearing to read "R. D. Nydegger", written over the typed name.

RICK D. NYDEGGER
Registration No. 28,651
J. LAVAR OLDHAM
Registration No. 53,409
Attorneys for Applicant
Customer No. 047973

JLO:crbl